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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/780,269	02/17/2004	Keith M. Grispo	50319-00139	2232
25231 7590 03/30/2009 MARSH, FISCHMANN & BREYFOGLE LLP 8055 East Tufts Avenue Suite 450 Denver, CO 80237			EXAMINER GILBERT, ANDREW M.	
			ART UNIT	PAPER NUMBER
			3767	
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			03/30/2009 PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/780,269

Applicant(s)

GRISPO, KEITH M.

Examiner

ANDREW M. GILBERT

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 December 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 57-69 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 57-69 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/5508)
- Paper No(s) Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s) Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Acknowledgments

1. This office action is in response to the reply filed on 12/19/2008.
2. In the reply, the Applicant amended claim 57 and added new claims 62-69.
3. Thus, claims 57-69 are pending for examination.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 57-69 are rejected under 35 U.S.C. 103(a) as being unpatentable over Medrad, Inc., "Stellant CT Injection System", Operation Manual Catalog #SOM 700 EN, 2003, 88 pages - hereafter, "Stellant."
3. ". Stellant discloses a method of using a dual head injector (pg 11, 16), the method comprising: mounting a first syringe that is prefilled (pg 32-56; wherein the Examiner notes that the syringe is explicitly disclosed as being capable of being prefilled - see 3-31, parts 2-3 "if the syringe was previously filled with contrast...", also see 3-37, part "to re-install the syringe" in that case the syringe is also considered prefilled) with contrast media to the injector; mounting a second syringe to the injector (pg 32-56); coupling a first section of Y-tubing to the first syringe and coupling a second section of the Y-tubing to the second syringe (3-30); initiating a programmed purge protocol of the injector while the first and second syringes are mounted to the injector

and while the first and second sections of the Y- tubing are coupled to the first and second syringes (3-30, parts 3-7; where it is explicit that after the syringes are connected to the y-connector that the device is primes and the purge routine is performed to ensure that all air is purged; it is explicit that the syringes are not connected to the patient prior to purging and priming), respectively, wherein the first syringe comprises contrast media (3-31, note 2 – "if the syringe was previously filled with contrast...") prior to the initiation of the programmed purge protocol; wherein the programmed purge protocol comprises: advancing a first plunger drive ram of the injector to move a plunger of the first syringe to a first stop point where the plunger of the first syringe stops (pg 30, 34-36), wherein the advancing of the first plunger drive ram purges all air from the first syringe and the first section of Y-tubing and fills the first section of the Y-tubing with contrast media (pg 30, 34-36; wherein the first paragraph and two notes under (3) on 3-30 show that a connector tube is connected to a priming tube that can vent and shown in the figure as being connected closer to contrast syringe A. The syringe moves the plunger to fill the connector tubing with fluid and purge the air from the syringe. 3-36, note 9 tells that is can be programmed to do starting with either syringe A or B); and advancing a second plunger drive ram of the injector to move a plunger of the second syringe to a second stop point where the plunger of the second syringe stops (pg 30, 34-36; especially pg 36), wherein the advancing of the second plunger drive ram purges air from the second syringe and the second section of the Y-tubing (pg 30, 34-36; the Examiner further notes that unless specifically detailed otherwise the steps of method claims can be preformed in any order. As claims, either

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the contrast or saline syringe (ie 1st or 2nd syringe) may be purged first); and initiating a programmed injection procedure that includes injecting contrast media into the patient (pg 34-52), wherein the programmed injection procedure occurs: after the programmed purge protocol is completed; while the first and second syringes are mounted to the injector; and while the first and second sections of the Y-tubing are coupled to the first and second syringes, respectively (pg 34-52); wherein a combination of the advancing of the first plunger drive ram and the advancing of the second plunger drive ram results in a purge of substantially all air from the first and second syringes and the Y-tubing (pg 30, 34-52; and discussions above); wherein the advancing of the first plunger drive ram occurs before the advancing of the second plunger drive ram (pg 30, 34-52; and discussions above); wherein the advancing of the second plunger drive ram comprises filling the second section of the Y-tubing with saline; wherein the advancing of the second plunger drive ram comprises filling the second section and a third section of the Y-tubing with saline (pg 30, 34-52; and discussions above); wherein the first syringe is filled with contrast media (syringe A in 3-30, and its prefilled - 3-31); wherein the second syringe comprises saline prior to initiating the programmed purge protocol (syringe B and the syringe may be prefilled 3-31).

4. The Examiner notes that unless specifically detailed, method steps may be performed by the prior art in any manner. Thus, the air purge protocol from first syringe (A) or second syringe (B) may occur first in the prior art. Stellant discloses that either is capable via a programming protocol.

5. Stellant however does not explicitly disclose that advancing the second plunger ram will purge air from the third section of the tubing. However, Stellant teaches that the air is purged from the third section of the tubing and that it may be done by priming either syringe A or B. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the programming protocol as taught by Stellant with the second syringe B purging air from the third section of the tubing because Stellant explicitly teaches that it does not want to waste contrast media while priming (3-30) thus one ordinary skill in the art would have found it to be obvious to use the saline syringe to finish purging the 3rd section of the y-tubing.

6. Claims 57-69 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stellant in view of McWhorter et al (4044757). Stellant discloses the invention substantially as claimed and disclosed above.

7. McWhorter et al further teaches that it is known to have injection protocol to purge air involving the use and order of use of first and second syringes and respective plungers to purge air from a y-connector (Summary; col 4, lns 29-67; col 6, lns 36-col 7, lns 2) for the purpose of purging air prior to performing contrast injection during imaging. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the protocol as taught by Stellant with the detailed order of use of first and second syringes as taught by McWhorter et al for the purpose of purging air prior to performing contrast injection to prevent a false indication during imaging.

Response to Arguments

4. Applicant's arguments with respect to claims 57-69 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See PTO 892 Form.

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **ANDREW M. GILBERT** whose telephone number is (571)272-7216. The examiner can normally be reached on 8:30 am to 5:00 pm Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Simons can be reached on (571)272-4965. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Andrew M Gilbert/
Examiner, Art Unit 3767
/Kevin C. Simons/
Supervisory Patent Examiner, Art Unit 3767